

VETO MESSAGE

Feb. 2, 1875.<sup>a</sup>

*Hon. R. B. Hubbard, President of the Senate:*

Sir—I return herewith, without my approval, Senate Bill No. 345, “defining the offense of non-feasance, misfeasance and malfeasance in office, and providing penalties therefor.” Section two of this bill subjects justices of the peace to an onerous pecuniary fine, and removal from office for error of judgment in discharge of their official duties, whether in or out of court. If this bill should become a law and be strictly enforced, as all laws should be, it is believed that the office of justice of the peace would be vacated in every precinct in every county of the State in a very short time under its operation. Nor is it believed that any other officer under the government could maintain himself in office, if he should be brought within the requirements of a similar law. To require perfection of judgment in any officer, is to impose on the tenure of the office an impossible condition. Honest and good intentions under this bill will not save a justice of the peace from the very onerous penalty prescribed, when through “ignorance” he decides erroneously. No law is known ever to have existed in any country, which subjects a judicial officer to punishment when within the limits of his jurisdiction, he has acted or decided according to his best judgment. The great diversity of opinion on many legal questions, and the proverbial “uncertainty of the law,” is such that no standard can be erected, by which to determine the correctness of any given opinion on any legal question. To require that justices of the peace shall, at their peril, decide properly and correctly all that comes before them, is simply to demand an impossibility of them.

It is against the principle of natural justice to treat as a criminal the man who, in his place has done honestly the best he could, and, while trying to do right, has from infirmity of judgment done wrong. No man has a right to hold an office whose ignorance disqualifies him from discharging its duties, and I would like to see this bill so amended, as to reach cases of that character, and provide for the removal from office of all whose ignorance endangers the public interest, or unfits them for the place, but do not believe that they should be treated as criminals and punished, unless their conduct has in it some element of crime. The other sections of this bill are more or less objectionable for the same reasons given as to section 2.

RICHARD COKE.

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<sup>a</sup>Senate Journal, 234-235.